

amounts at risk under the benefit or benefits selected by the cost per \$1,000 of the amount at risk. Applicants also represent that the amounts at risk used will be actual figures, and that the determination of the figures on a monthly basis is reasonable. Applicants state that the cost per \$1,000 of amount at risk, *i.e.*, the cost of insurance charge, was determined using assumptions regarding the expected mortality of the Contract owners. Applicants state that these assumptions reflect that the Contracts are both insurance and investment vehicles and could appeal to a different group than would a traditional annuity. CG Life represents that there could be less self selection of this product by healthy individuals than a traditional annuity. Applicants further state that, because of the optional death benefits provided under the Contracts without health underwriting, there could be self selection by unhealthy individuals who would not ordinarily qualify for traditional life insurance. CG Life asserts that the foregoing mortality assumptions are reasonable. Applicants state the CG Life undertakes to maintain, at its home office and available to the Commission, a memorandum detailing the methodology used in determining that the optional death benefit charge is reasonable in relation to the risks assumed by CG Life under the Contracts.

6. Applicants acknowledge that the Sales Charge will likely be insufficient to cover all costs relating to the distribution of the Contracts. To the extent distribution costs are not covered by the Sales Charge, CG Life will recover its distribution costs from the assets of the general account. These assets may include that portion of the mortality and expense risk charge which is profit to CG Life, and that portion of the optional death benefit charge that is profit. Applicants represent that CG Life has concluded that there is a reasonable likelihood that the proposed distribution financing arrangement will benefit the Account, the Other Accounts and the owners of the Contracts. The basis for this conclusion is set forth in a memorandum which will be maintained by CG Life at its home office and will be made available to the Commission.

7. CG Life also represents that the Accounts will invest only in open-end management investment companies which undertake, in the event such company adopts a plan under Rule 12b-1 of the 1940 Act to finance distribution expenses, to have such plan formulated and approved by either the company's board of directors or the board of

trustees, as applicable, a majority of whom are not interested persons of such company within the meaning of the 1940 Act.

8. Applicants also request an order under Section 6(c) granting exemptions from Sections 2(a)(32) and 27(c)(1) of the 1940 Act and Rule 22c-1 thereunder to the extent necessary to permit the deduction from Account values of the optional death benefit charges at the following times: upon surrender; upon annuitization; and upon payment of a death benefit.

9. Section 27(c)(1) requires that periodic payment plan certificates, such as the Contracts, be redeemable securities. Section 2(a)(32) defines a "redeemable security" as one which, upon presentation to the issuer, entitles the holder to receive "approximately his proportionate share of the issuer's current net assets, or the cash equivalent thereof." Rule 22c-1 under the 1940 Act prohibits redemptions "except at a price based on the current net asset value of such security which is next computed * * *." Applicants concede that where the optional death benefit charge is imposed upon annuitization, surrender or payment of the death benefit, the net dollar amount paid upon surrender or in the form of a death benefit, or applied to the purchase of annuity units under the Contract, will be less than the full accumulation unit value of the variable portion of the Contract. Applicants state, however, that the gross proceeds will equal the full net asset value of the variable portion of the Contract. Applicants represent that the difference between the gross proceeds and the net dollar amount paid or applied will be equal to the unpaid aggregate charges for the optional death benefit that have accrued since the most recent Contract anniversary. Applicants state that if the cost for the optional death benefit were deducted from the value of the Contract upon accrual, there would be no difference between the gross proceeds and the net amount paid or applied. Applicants argue that payment of the accrued but unpaid charges out of the gross proceeds of redemption, annuitization or a death benefit should be viewed as a delayed deduction of otherwise permitted charges. Applicants assert that the prohibitions of Sections 2(a)(32) and 27(c)(1) and Rule 22c-1 are designed to prevent diminution or dilution of investment company assets and should not, therefore, be applied to a transaction that, but for its timing, would be otherwise permissible.

Conclusion

Applicants assert that the reasons and upon the facts set forth above, the

requested exemptions from Sections 2(a)(32), 26(a)(2)(C) and 27(c)(2) of the 1940 Act and Rule 22c-1 thereunder are unnecessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

For the Commission, by the Division Investment Management, pursuant to delegated authority.

[FR Doc. 95-11131 Filed 5-4-95; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-35655; File No. SR-DTC-95-05]

Self-Regulatory Organizations; The Depository Trust Company; Order Extending Temporary Approval of a Proposed Rule Change Expanding the Money Market Instrument Settlement Program

April 28, 1995.

On March 7, 1995, The Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") a proposed rule change (File No. SR-DTC-95-05) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").¹ Notice of the proposal was published in the **Federal Register** on March 24, 1995.² No comment letters were received. For the reasons discussed below, the Commission is extending its temporary approval of the proposed rule change through April 30, 1996.

I. Description of the Proposal

A. Generally

On April 22, 1994, the Commission approved, on a temporary basis until April 30, 1995, DTC's proposed rule change making its existing Money Market Instrument ("MMI") settlement services available for transactions in additional types of MMIs.³ The current proposed rule change seeks permanent approval of the new and expanded MMI settlement program. The expanded MMI settlement program includes institutional certificates of deposit ("CD"), municipal commercial paper, and bankers' acceptances. Prior to the April 1994 enhancement, the MMI program included corporate commercial

¹ 15 U.S.C. § 78s(b)(1) (1988).

² Securities Exchange Act Release No. 35513 (March 17, 1995), 60 FR 15614.

³ Securities Exchange Act Release No. 33958 (April 22, 1994), 59 FR 22878 [File No. SR-DTC-93-12] (order temporarily approving proposed rule change expanding DTC's MMI program).

paper ("CP"), medium-term notes, preferred stock in a CP-like mode, short-term bank notes, and discount notes.

The new and expanded MMI program is an extension of DTC's Same-Day Funds Settlement ("SDFS") system.⁴ The automated operating procedures for the MMI program are virtually the same as those followed by SDFS participants and by Institutional Delivery ("ID") system users for basic depository services in other eligible SDFS securities. The MMI issues being made SDFS-eligible will be distributed in book-entry-only form by the issuer's issuing agent that, as with commercial paper and medium-term notes in the MMI program, will send MMI issuance instructions to DTC electronically. Settlement of an issue will be on the same day as the issuance or on a specified future day. The issuer's paying agent will serve as DTC's custodian and will hold a master or balance MMI certificate for DTC unless the issuer and its issuing and paying agent bank choose to distribute uncertificated MMIs through DTC.⁵ Because SDFS-eligible MMIs will be book-entry-only, participant operating procedures for deposits and withdrawals will not apply to MMIs.

B. Risk Management

The fundamental risk in the SDFS system is that a participant will default on its payment obligation. The expanded MMI program is offered as an extension of DTC's current SDFS system; therefore, DTC will employ the same risk management controls (e.g., net debit collateralization, net debit caps, and receiver-authorized deliveries) to

transactions in these new MMIs as are employed in the current SDFS system.⁶

Net debit collateralization requires each participant to maintain in its account throughout the processing day collateral at least equal in value to the participant's net settlement debit. During the processing day, if a transaction will cause a net debit greater than the amount of collateral in the participant's account at the time the transaction is being processed, DTC will recycle the transaction until there is sufficient collateral in the participant's account. Transactions in the new MMI programs also will be subject to the participant's net debit cap.⁷ The net debit cap helps to protect against abnormal intraday debit peaks that are out of line with a participant's prior month's average daily activity level. The net debit cap also reduces the possibility that the failure to settle by more than one participant will not cause DTC to exceed its liquidity resources. The new MMI programs also will utilize the receiver-authorized delivery control which allows a participant to monitor deliveries and payment orders directed to its account before the orders are posted to the account.

In addition, DTC's three failure to settle procedures applicable to the CP program will be applicable to the new MMI programs. First, DTC will employ the same procedures with regard to the sequence in which DTC will use MMI collateral and eliminate payment order debits in a failing participant's account. Second, if DTC is notified before 3 p.m. eastern standard time ("E.S.T.") that a paying agent will not pay on an MMI issuer's maturity presentments, reorganization presentments, periodic principal presentments, or periodic income presentments or if DTC is informed of an MMI issuer's bankruptcy and a participant fails to settle with DTC on that day, DTC has the authority to reduce the settlement credits of participants who had transactions on the day of default with the defaulting issuer or the defaulting participant on the day of default. Third, if the paying agent has not settled with DTC by noon E.S.T. on the DTC business day following the settlement day or if a paying agent is determined to be

insolvent according to DTC's rules, DTC will notify the issuers utilizing that paying agent and provide those issuers with information on any presentments related to their MMIs on which the PA failed to pay DTC.

C. Expanded MMI Program

DTC will be expanding its CP program to include "uncommon CP." Uncommon CP is CP paying income periodically, a variable amount of income, or a variable amount of principal. It also includes CP denominated in a foreign currency, CP with a maturity of 271 days to a year, or corporate variable-rate demand obligations in CP mode. These instruments were not included in the original CP program.⁸

DTC also will be enhancing its MMI program for medium-term notes, short-term notes, discount notes, and preferred stock in CP-like mode. Processing of medium-term notes will be enhanced by DTC's collection and allocation of income, principal, reorganization, and maturity payments within the SDFS system. Paying agents will no longer have to separately wire such payments to DTC. Instead, as with maturity payments in the CP program, these payments will be included in each paying agents' net settlement figure due to or from DTC at the end of each day. Similarly, settlement of short-term notes will be enhanced with the inclusion of maturity payments and periodic income payments in the SDFS system and in the paying agent's net SDFS amounts due to or from DTC. The restriction that short-term notes must have a minimum maturity period of thirty days to be included in this program will be removed. The short-term notes, the discount notes, and the preferred stock in CP-like mode aspects of the program will all provide for uncertificated issuer programs. However, one master note or certificate may be held for DTC by the paying agent.

II. Discussion

Section 17A(b)(3)(F)⁹ of the Act requires that the rules of a clearing agency be designed to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible. As discussed below, the Commission believes that DTC's proposed rule change is consistent with DTC's obligations under the Act.

The new and enhanced MMI program is an extension of DTC's current SDFS system and includes many of the same

⁴ DTC's SDFS system currently includes the following issue types: corporate commercial paper, municipal notes and bonds, municipal variable-rate demand obligations, zero coupon bonds backed by U.S. Government securities, continuously offered medium-term corporate notes, short-term bank notes, auction-rate and tender-rate preferred stocks and notes, collateralized mortgage obligations and other asset-backed securities, Government trust certificates and Government agency securities not eligible for the Fed's book-entry system, retail certificates of deposit, corporate and municipal variable mode obligations, corporate bonds, discount notes, and unit trusts. For a detailed description and discussion of DTC's SDFS system, including the implementation of the commercial paper program, refer to Securities Exchange Act Release Nos. 26051 (August 31, 1988), 53 FR 34853 [File No. SR-DTC-88-06] (order permanently approving DTC's SDFS system) and 30986 (July 31, 1992), 57 FR 35856 [File No. SR-DTC-92-01] (order approving implementation of commercial paper program).

⁵ Uncertificated MMIs are not evidenced by any certificate whatsoever. Bills, notes, bonds, and other securities have been issued in uncertificated form by U.S. government and federal agencies for many years.

⁶ *Supra* note 4.

⁷ Each participant's net debit is limited throughout the processing day to a net debit cap that is the least of the following four amounts: (1) A multiple of the participant's required and voluntary deposits to the SDFS fund, (2) an amount that is equal to seventy-five percent of DTC's liquidity resources, including cash deposits to the SDFS fund and lines of credit for loans to facilitate SDFS settlement, (3) an amount, if any, determined by the participant's settling bank, and (4) an amount, if any, determined by DTC. *Supra* note 4.

⁸ *Supra* note 4.

⁹ 15 U.S.C. § 78q-1(b)(3)(F) (1988).

risk management features that are employed in the SDFS system. The Commission previously examined these features with DTC first proposed the SDFS system,¹⁰ when the CP program was added,¹¹ and when the Commission granted temporary approval to the expanded MMI program.¹² At those times, the Commission found, and continues to believe, that these risk management measures are consistent with Section 17A of the Act and should minimize the impact of a default by a participant in the SDFS system.

The use of provisional credits and unwind procedures if an MMI issuer were to default, however, could increase the risk of settlement gridlock in certain circumstances. For example, if DTC were to confirm the insolvency of an MMI issuer before 3:00 p.m.,¹³ DTC would reverse all participants' credits attributable to the insolvent issuer without regard to any of the risk management controls. Such reversals of credits could result in a participant having a net debit that exceeds the participant's net debit cap and DTC's liquidity resources. If such a participant then failed to settle its net debit with DTC, DTC could possibly have difficulty completing other settlements.

As an interim solution to reduce these risks, DTC has obtained additional lines of credit dedicated to the completion of settlement in the SDFS system in the event a participant fails to settle after application of the unwind procedures. The additional lines of credit are supported by securities pledged to the SDFS fund and are not included as a part of DTC's liquidity resources when determining a participant's net debit cap. DTC also continues to employ its liquidity monitoring system which simulates double default scenarios every fifteen minutes beginning at 2:00 p.m. E.S.T.

As discussed in the original order granting temporary approval to DTC's MMI program, DTC proposed a long term solution to reduce the risks associated with the use of provisional credits. The solution, which changes the components of DTC's liquidity resources and seeks to implement new risk management controls, was designed after consulting with the Federal Reserve Bank of New York and recently has been filed with the Commission for

approval.¹⁴ However, because the largest provisional net credit procedure is not scheduled for implementation until the third quarter of 1995, the Commission believes that extension of temporary approval of the rule change is appropriate pending the full operational capability of DTC's system enhancements.

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR-DTC-95-05) be, and hereby is, approved on a temporary basis through April 30, 1996.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.¹⁵

[FR Doc. 95-11130 Filed 5-4-95; 8:45 am]
BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Declaration of Disaster Loan Area #2768

Alabama; Declaration of Disaster Loan Area

As a result of the President's major disaster declaration on April 21, 1995, I find that the counties of Cullman, DeKalb, Marion, Marshall and Winston in the State of Alabama constitute a

¹⁴ For a complete discussion of DTC's proposed changes, refer to Securities Exchange Act Release No. 35613 (April 17, 1995), 60 FR 19971 [File No. SR-DTC-95-06] (notice of proposed rule change). DTC proposes to establish to all-cash participants fund in an amount of \$400 million and a fixed net debit cap of \$900 million. DTC has also proposed to add the Largest Provisional Net Credit ("LPNC") calculation control which is to be applied to a participant's net settlement balance and collateral monitor in order to protect DTC against the combined failure of a MMI issuer and a participant.

Under the LPNC Control, DTC will subtract the amount of a participant's largest provisional net credit due to transactions in any single issuer's MMIs from the participant's collateral monitor ("simulated collateral monitor") and net debit or credit balance ("simulated balance"). If a transaction will cause the simulated collateral monitor to turn negative (*i.e.*, the participant's collateral would be insufficient to cover its simulated net debit after the transaction) or the resulting net debit balance to exceed the participant's net debit cap, the transaction will be blocked. Blocked transactions will be recycled until credits from other transactions in MMIs of issuers other than those of the largest provisional net credit cause the simulated collateral monitor to be positive or the resulting net debit balance to be within the net debit cap limits.

¹⁵ 17 CFR 200.30-3(a)(12) (1994).

disaster area due to damages caused by severe storms, tornadoes, and flooding which occurred February 15 through February 20, 1995. Applications for loans for physical damages may be filed until the close of business on June 20, 1995, and for loans for economic injury until the close of business on January 22, 1996, at the address listed below: U.S. Small Business Administration, Disaster Area 2 Office, One Baltimore Place, Suite 300, Atlanta, GA 30308, or other locally announced locations. In addition, applications for economic injury loans from small businesses located in the contiguous counties of Blount, Cherokee, Etowah, Fayette, Franklin, Jackson, Lamar, Lawrence, Madison, Morgan, and Walker in the State of Alabama; Chatooga, Dade, and Walker in the State of Georgia; and Itawamba and Monroe in the State of Mississippi may be filed until the specified date at the above location.

The interest rates are:

	Percent
<i>For Physical Damage:</i>	
Homeowners with credit available elsewhere	8.000
Homeowners without credit available elsewhere	4.000
Businesses with credit available elsewhere	8.000
Businesses and non-profit organizations without credit available elsewhere	4.000
Others (including non-profit organizations) with credit available elsewhere	7.125
<i>For Economic Injury:</i>	
Businesses and small agricultural cooperatives without credit available elsewhere	4.000

The number assigned to this disaster for physical damage is 276812. For economic injury the numbers are 850100 for Alabama; 850200 for Georgia; and 850300 for Mississippi.

Dated: April 28, 1995.

James E. Rivera,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 95-11106 Filed 5-4-95; 8:45 am]

BILLING CODE 8025-01-M

RESOLUTION TRUST CORPORATION

Coastal Barrier Improvement Act; Property Availability; Kitty Hawk Woods, Dare County, NC

AGENCY: Resolution Trust Corporation.

ACTION: Notice.

SUMMARY: Notice is hereby given that the property known as Kitty Hawk

¹⁰ *Supra* note 4.

¹¹ *Supra* note 4.

¹² *Supra* note 3.

¹³ If DTC can not confirm that an MMI issuer is insolvent before 3:00 p.m. E.S.T., DTC will not reverse credits attributable to that issuer because after 3:00 p.m. E.S.T. credits are no longer provisional in DTC's SDFS system.